

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

LEONARD T. SINGTON, JR., et }
al., }
 }
Plaintiffs, } CIVIL ACTION NO.
 } 08-AR-1657-S
v. }
 }
TAYLOR, BEAN & WHITAKER }
MORTGAGE CORPORATION, et al., }
 }
Defendants.

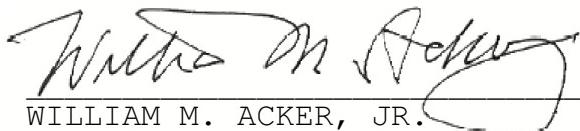
MEMORANDUM OPINION AND ORDER

On July 13, 2009, defendant, Taylor, Bean & Whitaker Mortgage Corporation ("TBW") filed a counterclaim against plaintiffs, Leonard T. Sington, Jr., James J. Little, Sington-Little Mortgage, and Gail Issac (collectively "plaintiffs"). The counterclaim was filed without leave of court. On March 5, 2009, the court entered a scheduling order which, *inter alia*, stated, "Defendants shall have until **July 13, 2009,** to amend the pleadings." (Scheduling Order ¶ 10) (emphasis in original).

The procedural facts here are nearly identical to those of *Vulcan Marketing, Inc. v. Technical Consumer Products, Inc.*, 597 F. Supp. 2d 1266 (N.D. Ala.), amended on denial of reconsideration, 614 F. Supp. 2d 1253 (N.D. Ala. 2009). In light of *Vulcan Marketing*, TBW shall, **within 14 days**, show cause if it can do so why its counterclaim should not be stricken. If TBW undertakes to

show cause, plaintiffs shall have **7 calendar days** within which to respond.

DONE this 15th day of July, 2009.



WILLIAM M. ACKER, JR.
UNITED STATES DISTRICT JUDGE